

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 671  
SPONSOR(S): Rivera  
TIED BILLS:

Sellers of Travel

IDEN./SIM. BILLS: SB 1310

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Agribusiness</u>	<u>7 Y, 0 N</u>	<u>Clemons</u>	<u>Reese</u>
2) <u>Environment &amp; Natural Resources Council</u>	<u></u>	<u>Clemons / Smith</u>	<u>Dixon / Hamby</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill amends the Florida Sellers of Travel Act (Act), ss. 559.926-559.939, F.S., by increasing state oversight for those profiting from selling travel to and from terrorist states as defined by the United States Department of State. This bill requires sellers of travel to and from any terrorist states to comply with additional requirements and imposes higher fees, which do not currently appear in the Act.

Specifically, the bill:

- Creates definitions for “Certifying party” and “Terrorist state,” and revises the definition of “Prearranged travel, tourist-related services, or tour-guide services.”
- Creates certification requirements for sellers of travel and classifies such sellers within three different categories based on each seller’s level of involvement in selling travel to or from terrorist states.
- Creates different levels of security bonds that sellers must purchase according to seller classifications - the more involved in selling travel to or from terrorist states the higher the required bond.
- Eliminates current alternatives to security bonds.
- Increases the requirements for waiver of bond by the Department of Agriculture and Consumer Services (department).
- Adds additional violations of the Act.
- Adds an administrative remedy and a civil penalty which the department may impose for violation of the Act.
- Adds a criminal penalty (a felony of the third degree) for violation of the Act.

This bill has an indeterminate fiscal impact on state government. The bill increases certain annual registration fees and bond amounts for sellers of travel to or from any terrorist states. The Criminal Justice Estimating Conference has not yet determined the prison bed impact of Section 9 of this bill, which creates a third degree felony related to the sale of travel to a terrorist state. The effective date of this legislation is July 1, 2008.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government/Maintain public security** - This bill increases requirements for sellers of travel to or from terrorist states. Such requirements impose more record correspondence with the department and higher fees for such business practices.

#### B. EFFECT OF PROPOSED CHANGES:

The Florida Sellers of Travel Act requires each seller of travel to register with the department, and show the department proof of purchase of adequate bond (or either establishment of a letter of credit or certificate of deposit.) Registration fees are currently set at \$300 per year per registrant. Security bond amounts are currently not to exceed \$25,000 or \$50,000 if the seller of travel is offering vacation certificates. The current law exempts sellers of travel who are under contract with the Airlines Reporting Corporation (ARC) from registration and other sections of the statute. According to ARC, records as of February 1, 2008, indicate that there are 1,436 ARC-accredited locations in Florida. The current law provides for a first degree misdemeanor for violation of the Act.

This bill creates definitions for “certifying party” and “terrorist state” and revises the definition of “prearranged travel, tourist services, or tour-guide services.”

This bill provides that terrorist states are defined by the United States Department of State, which maintains a list of countries that have repeatedly supported acts of international terrorism. These countries are considered terrorist nations by three federal laws: section 6(j) of the Export Administration Act, section 40 of the Arms Export Control Act, and section 620A of the Foreign Assistance Act. The countries designated are Cuba, Iran, North Korea, Sudan and Syria.

This bill establishes a new certification scheme, whereby sellers of travel are required to annually certify their business activities by filing a disclosure statement with the department representing the scope of the seller’s business activities. Sellers of travel are classified into three categories, as follows:

- Sellers of travel that do not offer for sale, directly or indirectly, at wholesale or retail, prearranged travel, tourist-related services, or tour-guide services for individuals or groups to or from any terrorist state;
- Sellers of travel that only offer for sale, directly or indirectly, at wholesale or retail, prearranged travel, tourist-related services, or tour-guide services for individuals or groups to or from any terrorist state but engage in no other business dealings or commerce with any terrorist state; and
- Sellers of travel that offer for sale, directly or indirectly, at wholesale or retail, prearranged travel, tourist-related services, or tour-guide services for individuals or groups to or from any terrorist state and also engage in any other business dealings or commerce with any terrorist state.

Additionally, the bill provides that the department must specify by rule the form of certification. The rule must include information including the legal name, trade or fictitious names, mailing and physical addresses, phone and fax numbers, email information, and the type of travel that the seller offers for sale to, from, or within terrorist states, including how often such travel service is offered. The bill also requires a listing of each terrorist state with which such seller of travel does direct business or which is an intermediate for doing business with a terrorist state. A seller of travel must also include all contact information for each entity with which the seller engages business that is related to business with a terrorist state.

This bill revises the registration fee scheme; the fee required is based on how a seller of travel is certified. A seller of travel who does not sell travel to or from a terrorist state is required to pay three hundred dollars per year, a seller of travel who sells travel to or from terrorist states but does not

engage in other business dealings with terrorist states must pay one thousand dollars per year, and a seller of travel who sells travel to or from terrorist states and also engages in other business dealings with terrorist states must pay twenty-five hundred dollars per year.

The bill establishes that any violation or charge of a violation by an applicant punishable as a crime under either state or federal law allows the department to deny or refuse to renew the registration of any seller of travel, and acts of moral turpitude are removed as a reason for the department's denial or renewal of registration of any seller of travel.

This bill revises the security bond scheme; the required bond amount is based on how a seller of travel is certified. A seller of travel who does not sell travel to or from terrorist states must provide a performance bond not to exceed \$25,000 or (in the amount of) \$50,000 if offering vacation certificates. A seller of travel who sells travel to or from terrorist states but does not engage in other business dealings with terrorist states must provide a performance bond not to exceed \$100,000 or (in the amount of) \$150,000 if offering vacation certificates. A seller of travel who sells travel to or from terrorist states and also engages in other business dealings with terrorist states must provide a performance bond not to exceed \$250,000 or (in the amount of) \$300,000 if offering vacation certificates.

The bill specifies that a bond provided by a seller of travel to or from terrorist states shall be in favor of the department, and specifies an order of priority for payments. First priority is given to all expenses for prosecuting a seller of travel in any administrative or civil action, including attorneys' fees, court costs, and all other expenses incidental to the action. Second priority is given to all costs of investigation prior to commencement of the administrative or civil action. Third priority is given to any unpaid administrative fines or unpaid civil penalties imposed by final order or final judgment. Last priority is given to damages or compensation for any traveler injured.

The bill also eliminates both certificates of deposit and irrevocable letters of credit in Florida banking institutions as alternatives to providing security bonds. Additionally, the bill establishes that selling travel to or from terrorist states or violation of any statute pertaining to business or commerce with any terrorist state precludes sellers of travel from obtaining a waiver of security bond.

With regard to exemptions of this Act, this bill establishes that to qualify for an exemption the seller of travel must not sell travel to or from a terrorist state, the department may revoke an exemption if it finds that the seller of travel has violated a statute pertaining to business or commerce with any terrorist state, and acts of moral turpitude are removed as a basis for the department to revoke an exemption. Sellers of travel issuing airline tickets or offering vacation certificates who have contracted with the Airlines Reporting Corporation are still exempt under this bill so long as the seller of travel is certified so as to not sell travel to or from any terrorist state.

The bill also establishes that it is a violation of this Act to offer to sell travel or provide any travel-related services to purchasers traveling to or from any terrorist state without disclosure of such activities to the department and to violate any state or federal law that restricts or prohibits commerce with terrorist states.

The bill authorizes administrative fines and civil penalties, not to exceed \$10,000, for each act or omission pertaining to an offer to sell travel or provide travel-related services to purchasers traveling to or from any terrorist state. In addition to a first degree misdemeanor which is currently provided for, the bill creates a third degree felony criminal penalty for a violations of this Act.

#### C. SECTION DIRECTORY:

**Section 1:** Amends s. 559.927, F.S., by defining "certifying party" and "terrorist state" and revising the definition of "prearranged travel, tourist-related services, or tour-guide services."

**Section 2:** Amends s. 559.928, F.S., to revise provisions relating to registration as a seller of travel, registration fees, and conditions for denial of or refusal to renew registration of any seller of travel by the department.

**Section 3:** Creates s. 559.9285, F.S., to require a seller of travel to annually file a disclosure statement to the department, certifying the scope of his business; requires the department to specify by rule the form of certification; specifies required certification information.

**Section 4:** Amends s. 559.929, F.S., to revise requirements with respect to the performance bond which a seller of travel must include with registration or an application for registration; specifies amounts of bonds for certification categories; eliminates alternative means of satisfying security requirements; provides for priority of payment with respect to such bonds; revises conditions under which the department may annually waive the bond; precludes specified certification categories from waiver of bond.

**Section 5:** Amends s. 559.9335, F.S., by providing that it is a violation of the Florida Sellers of Travel Act to offer to sell travel or provide any travel-related service to a purchaser traveling to or from any terrorist state without disclosing the business activities in a certification filed with the department and to violate any state or federal law restricting or prohibiting commerce with terrorist states.

**Section 6:** Amends s. 559.935, F.S., to revise provisions which exempt certain sellers of travel and affiliates thereof from specified registration, security, disclosure, and recordkeeping requirements; revises conditions under which the department may revoke such exemptions.

**Section 7:** Amends s. 559.9355, F.S., by imposing an administrative fine for certain activities of sellers of travel.

**Section 8:** Amends s. 559.936, F.S., by authorizing the department to seek a specified civil penalty for certain activities of sellers of travel.

**Section 9:** Amends s. 559.937, F.S., by providing a criminal penalty for a violation of the Florida Sellers of Travel Act for certain activities of sellers of travel.

**Section 10:** Provides an effective date of July 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill requires registered and exempt sellers of travel to file a new certification with the department. A seller of travel who elects to sell travel to or from terrorist states but does not engage in other business dealings with terrorist states must pay \$1000 per year, and a seller of travel who sells travel to or from terrorist states and also engages in other business dealings with terrorist states must pay \$2,500 per year. A seller of travel who elects to sell travel to or from terrorist states is also required to post bonds in greater amounts and no longer qualifies for exemption from registration and other requirements.

D. FISCAL COMMENTS:

The bill increases certain annual registration fees for those selling travel or doing other business with terrorist nations. The fee required is based on how a seller of travel is certified. A seller of travel who does not sell travel to or from a terrorist state is required to pay \$300 per year, the current fee. A seller of travel who sells travel to or from terrorist states but does not engage in other business dealings with terrorist states must pay \$1000 per year, and a seller of travel who sells travel to or from terrorist states and also engages in other business dealings with terrorist states must pay \$2,500 per year. Pursuant to s. 559.938, F.S., the revenues will be deposited into the department's General Inspection Trust Fund. The bill appears to have an indeterminate fiscal impact.

The Criminal Justice Estimating Conference has not yet determined the prison bed impact of Section 9 of this bill, which creates a third degree felony related to the sale of travel to a terrorist state. According to the Department of Corrections, the impact on the prison and probation populations is unknown, but anticipated to be minimal.

The bill appears to have an insignificant fiscal impact on the Department of Agriculture and Consumer Services.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill authorizes the department to adopt such rules as are necessary for the implementation and administration of the act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### D. STATEMENT OF THE SPONSOR

Travel agencies, or “Sellers of Travel,” operating in Florida and doing business with terrorist nations are largely exempted from state oversight and regulation. The U.S. State Department provides a yearly designation of nations around the world that are deemed to be official sponsors of state terrorism. Currently, five nations have been designated by the U.S. State Department as sponsors of state terrorism. These terrorist nations include North Korea, Iran, Sudan, Cuba and Syria. HB 671 seeks to establish regulatory oversight on Florida-based travel agencies that engage in business with these terrorist nations. As most Floridians would agree, terrorist nations pose a unique risk to the safety and security of our citizenry. Just as the federal government has enacted specific legislation to regulate travel and commerce between the United States and terrorist nations, so too should Florida establish regulatory guidelines for the Florida-based operators of travel activity occurring between our state and terrorist nations. HB 671 would provide for reasonable oversight of such commercial activity as well as penalties for non-compliance of regulatory requirements.

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A